APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/506,125	02/17/2000	Felix G. T. I. Andrew	202411	6776

7590   02/27/2003

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EXAMINER
KISS, ERIC B

ART UNIT	PAPER NUMBER
2122	

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

●	Application No. ● 09/506,125	Applicant(s) ANDREW ET AL.
Office Action Summary	Examiner Eric B. Kiss	Art Unit 2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 February 2000* .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 February 2000* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *2* .

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: .

DETAILED ACTION

1.   Claims 1-25 have been examined.

Information Disclosure Statement

2.   The information disclosure statement filed April 18, 2000, fails to comply with 37 CFR

1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that

portion which caused it to be listed; and all other information or that portion which caused it to

be listed. It has been placed in the application file, but the information referred to therein has not

been considered.

Drawings

3.   The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they

include the following reference sign(s) not mentioned in the description: "234" in Fig. 5B

(apparently described in page 25, lines 3-6). A proposed drawing correction, corrected drawings,

or amendment to the specification to add the reference sign(s) in the description, are required in

reply to the Office action to avoid abandonment of the application. The objection to the drawings

will not be held in abeyance.

Claim Objections

4.   Applicant is advised that should claims 6 and 25 be found allowable, claims 8 and 24 will

be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in

an application are duplicates or else are so close in content that they both cover the same thing,

despite a slight difference in wording, it is proper after allowing one claim to object to the other

as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Double Patenting

5.   The nonstatutory double patenting rejection is based on a judicially created doctrine
grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or
improper timewise extension of the "right to exclude" granted by a patent and to prevent possible
harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.
Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686
F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA
1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to
overcome an actual or provisional rejection based on a nonstatutory double patenting ground
provided the conflicting application or patent is shown to be commonly owned with this
application. See 37 CFR 1.130(b).
        Effective January 1, 1994, a registered attorney or agent of record may sign a terminal
disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37
CFR 3.73(b).

6.   Claim 9 is provisionally rejected under the judicially created doctrine of obviousness-

type double patenting as being unpatentable over claim 34 of copending Application No.

09/452,421 (Application '421) in view of *Megginson*.

        As per claim 9, Application '421 claims (in claim 34) such a system for developing an

application program but does not claim at least one default source of resource information

wherein the resource information is not explicitly specified in the resource file. However,

Megginson teaches at least one default source of resource information wherein the resource

information is not explicitly specified in the resource file (see, for example, the description of the

#IMPLIED keyword on page 23). Therefore, it would have been obvious to one having ordinary

skill in the computer art at the time the invention was made to modify the system of Application

'421, claim 34, to include at least one default source of information as per the teachings of

Megginson. One would be motivated to do so to gain the advantage of not having to require

authors to specify a value for an attribute.

This is a <u>provisional</u> obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 112

7.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8.   Claims 1-8 and 19-21 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

a)   Claim 1 recites the limitation "the first resource element" in lines 5-7 (two occurrences).

There is insufficient antecedent basis for this limitation in the claim. In the interest of compact

prosecution, this limitation is subsequently treated as "a first resource element" for the purpose

of further examination.

b)   The limitations "identifying a first resource element data needed for a first resource

element" and "identifying specified data for the first resource element in the resource file" (lines

5-7) appear to describe the same feature, i.e. identifying data for a first resource element. It is

unclear whether a relationship or distinction between these limitations exists that necessitates the

recitation of both limitations. In the interest of compact prosecution, these limitations are

subsequently interpreted, for the purpose of further examination, as describing the same method

step, wherein "a first resource element data" is synonymous with "specified data" and the "first

resource element" is contained in the resource file.

c)   Claims 2-8 are rejected based on inherited parent claim limitations recited in claim 1 and

rejected as set forth above in items a) and b).

d)   Claims 19 and 21 recite the limitation "the step of completing the creation of the first

resource using default information" in lines 1-2 of each claim. There is insufficient antecedent

basis for this limitation in the claim. In the interest of compact prosecution, this limitation is

subsequently treated as "the step of obtaining non-specified resource data" for the purpose of

further examination.

e)   Claim 20 is rejected based on inherited parent claim limitations recited in claim 19 and

rejected as set forth above in item d).

Claim Rejections - 35 USC § 102

9.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
> sale in this country, more than one year prior to the date of application for patent in the United States.

10.   Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by David

Megginson, "Structuring XML Documents," 1998, Prentice Hall PTR (hereinafter *Megginson*).

As per claim 1, *Megginson* discloses a method for developing an application program, the

application program using at least one resource file (XML document), the resource file including

resource data in a markup language to be interpreted in accordance with a schema (XML),

wherein the resource file does not explicitly specify all resource data (see, for example, the

description of default values in Section 1.3.2 and subsections 1.3.2.1 and 1.3.2.2 on pages 21-

23), the method comprising the steps of: identifying a first resource element data needed for a

first resource element in the resource file (see, for example, the description of entities in Section

1.4 and subsections 1.4.1 through 1.4.3 on pages 28-32); and obtaining non-specified resource

data, which is not explicitly specified for the first resource element in the resource file, from

resource data specified by the application program (see, for example, the description of the

#IMPLIED keyword on page 23).

As per claim 2, *Megginson* further discloses the step of using a software tool for editing a

first resource file corresponding to the application being developed, wherein the software tool

uses a markup language to write new information in the first resource file ("writers creating new

documents (with or without specialized XML software)"; see page 87).

As per claim 3, *Megginson* further discloses the step of naming the resource file in

accordance with a naming scheme to aid in identifying the resource data in the resource file (see,

for example, the description of the document type declaration in Section 1.1 on pages 4-5).

As per claim 4, *Megginson* further discloses the resource file being external to the

application program (see, for example, the description of the external subset in Section 1.1 on

pages 4-5).

Claim Rejections - 35 USC § 103

11.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12.   Claims 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Megginson.

As per claim 18, this is a computer-readable media version of the claimed method discussed above (claim 1), wherein all claim limitations also have been addressed as set forth above. Official Notice is taken that the use of such computer-readable media to store executable instructions for implementing a computer method was well known and practiced in the computer art at the time the invention was made. Therefore, such a claim would have been obvious.

As per claim 21, *Megginson* further discloses the step of obtaining non-specified resource data including accessing the implementation of a second resource (using subdocuments; see introduction to Chapter 7, pages 215-218; and Section 7.3 with Subsections 7.3.1 through 7.3.4 on pages 235-242).

13.   Claims 5-17,19, 20, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Megginson* as applied to claims 1 and 18 above, and further in view of Elliotte Rusty Harold, "XML Bible,"1999, IDG Books Worldwide, Inc. (hereinafter *Harold*).

As per claim 5, *Megginson* discloses such a method (see disclosure applied above to claim 1) but fails to expressly disclose the step of obtaining data including getting default resource data from programmable settings chosen by a user in setting up a computing environment for executing the application program. However, *Harold* teaches getting default resource data from programmable settings chosen by a user in setting up a computing environment (see, for example, "System Colors" on pages 414-415). Therefore, it would have been obvious to one having ordinary skill in the computer art at the time the invention was made to modify the method of *Megginson* to include getting default resource data from programmable settings chosen by a user in setting up a computing environment as per the teachings of *Harold*.

One would be motivated to do so to gain the advantage of being able to supply pages that fit the user's preferred look and feel.

As per claims 6 and 8, *Megginson* discloses such a method (see disclosure applied above to claim 1) but fails to expressly disclose the step of obtaining data including getting default resource data from resource data used to implement the parent node of a current node in a tree formed by parsing the markup language in the resource file wherein the current node corresponds to the first resource element. However, *Harold* teaches getting default resource data (properties) from resource data used to implement the parent node of a current node in a tree formed by parsing the markup language (see Listing 6-1, Figure 6-1, and their associated text on pages 146-147; and "Inheritance" on pages 334-335). Therefore, it would have been obvious to one having ordinary skill in the computer art at the time the invention was made to modify the method of *Megginson* to include getting default resource data from resource data used to implement the parent node of a current node in a tree formed by parsing the markup language as per the teachings of *Harold*. One would be motivated to do so to gain the advantage of not having to specify attribute values for child nodes.

As per claim 7, *Megginson* discloses such a method (see disclosure applied above to claim 1) but fails to expressly disclose the step of obtaining data including getting default resource data from the default specification for a graphical user interface. However, *Harold* teaches getting default resource data from the default specification for a graphical user interface (see, for example, "System Colors" on pages 414-415). Therefore, it would have been obvious to one having ordinary skill in the computer art at the time the invention was made to modify the method of *Megginson* to include getting default resource data from the default specification for a

graphical user interface as per the teachings of *Harold*. One would be motivated to do so to gain the advantage of being able to supply pages that fit the user's preferred look and feel.

As per claim 9, *Megginson* discloses a system for developing an application program in an environment including developers for modifying code, designers for evaluating aesthetic and ease of use of a user interface for the application program (authors and information-processing specialists; see paragraphs 3 and 4 on page xxxii), the system comprising: a resource file containing information encoded in accordance with a markup language (an XML document); and at least one default source of resource information wherein the resource information is not explicitly specified in the resource file (see, for example, the description of default values in Section 1.3.2 and subsections 1.3.2.1 and 1.3.2.2 on pages 21-23). *Megginson* fails to expressly disclose a resource-loader routine in the operating system for retrieving information from the resource file responsively to a resource-requesting call made by the application program and obtaining a tree corresponding to the markup language; and an interpreter for rendering parsed markup language encoded information in the resource file. However, *Harold* teaches a resource-loader routine in the operating system for retrieving information from the resource file responsively to a resource-requesting call made by the application program and obtaining a tree corresponding to the markup language (see "Parsers and Processors" on page 9; and "The Process Summarized" on page 10); and an interpreter for rendering parsed markup language encoded information in the resource file (see "Browsers and Other Tools" on page 9; and "The Process Summarized" on page 10). Therefore, it would have been obvious to one having ordinary skill in the computer art at the time the invention was made to modify the system of

Megginson to include a resource-loader routine and an interpreter as per the teachings of *Harold*.

One would be motivated to do so to be able to process and display an XML document.

As per claim 10, *Megginson* further discloses a schema for the markup language being a

first default source of resource information (see, for example, the description of the #FIXED

default value on page 22). Therefore, for reasons stated above, such a claim also would have

been obvious.

As per claim 11, *Megginson* fails to expressly disclose a style specification being a first

default source of resource information. However, *Harold* further teaches a style specification

being a source of default data (see introductory paragraph of Chapter 12 on page 323).

Therefore, it would have been obvious to one having ordinary skill in the computer art at the

time the invention was made to further modify the system of *Megginson* to include a style

specification being a source of default resource information as per the teachings of *Harold*. One

would be motivated to do so to gain the advantage of specifying formatting parameters without

changing the content of a document.

As per claims 12 and 13, *Megginson* further discloses an implementation of a resource

element being a first default source of resource information, which includes reference values for

implementing explicitly specified resource information in the resource file (using subdocuments;

see introduction to Chapter 7, pages 215-218; and Section 7.3 with Subsections 7.3.1 through

7.3.4 on pages 235-242). Therefore, for reasons stated above, such claims also would have been

obvious.

As per claim 14, *Megginson* fails to expressly disclose a parent node of a current node in

a tree corresponding to the markup language in the resource file being a first default source of

resource information. However, *Harold* further teaches a parent node in such a tree being a

source of default resource information (see Listing 6-1, Figure 6-1, and their associated text on

pages 146-147; and "Inheritance" on pages 334-335). Therefore, it would have been obvious to

one having ordinary skill in the computer art at the time the invention was made to further

modify the system of *Megginson* to include a parent node in a tree being a source of default

resource information as per the teachings of *Harold*. One would be motivated to do so to gain the

advantage of not having to specify attribute values for child nodes.

As per claim 15, *Megginson* fails to expressly disclose at least one programmable setting

being a first default source of resource information. However, *Harold* further teaches at least

one programmable setting being a source of default resource information (see, for example,

"System Colors" on pages 414-415). Therefore, it would have been obvious to one having

ordinary skill in the computer art at the time the invention was made to further modify the

system of *Megginson* to include at least one programmable setting being a source of default

resource information as per the teachings of *Harold*. One would be motivated to do so to gain

the advantage of being able to supply pages that fit the user's preferred look and feel.

As per claim 16, *Megginson* further discloses the application program being a first default

source of resource information not found in the resource file (see, for example, the description of

the #IMPLIED keyword on page 23). Therefore, for reasons stated above, such a claim also

would have been obvious.

As per claim 17, *Megginson* further discloses the resource loader obtaining resource

information from a first default source if the resource file includes explicit instructions to use

default resource information (see, for example, the description of the #FIXED default value on page 22). Therefore, for reasons stated above, such a claim also would have been obvious.

As per claims 19 and 20, *Megginson* discloses such a method and suggests such computer-readable media (see disclosure applied above to claim 1 and rejection applied above to claim 18) but fails to expressly disclose the step of obtaining non-specified resource data including accessing a style specification provided in the markup language. However, *Harold* teaches accessing a style specification provided in the markup language to obtain resource data (see introductory paragraph of Chapter 12 on page 323). Therefore, it would have been obvious to one having ordinary skill in the computer art at the time the invention was made to modify the method of *Megginson* to include accessing a style specification provided in the markup language as per the teachings of *Harold*. One would be motivated to do so to gain the advantage of specifying formatting parameters without changing the content of a document.

As per claims 22-25, these are computer-readable media versions of the claimed methods discussed above (claims 5, 7, 8, and 6, respectively), wherein all claim limitations also have been addressed as set forth above. Official Notice is taken that the use of such computer-readable media to store executable instructions for implementing a computer method was well known and practiced in the computer art at the time the invention was made. Thus, accordingly such claims also would have been obvious.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric B. Kiss whose telephone number is (703) 305-7737. The examiner can normally be reached on Tue. - Fri., 7:30 am - 5:00 pm. The examiner can also be reached on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (703) 308-4789.

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
Washington, DC 20231
Or faxed to:
(703) 746-7239 (for formal communications intended for entry)
Or:
(703) 746-7240 (for informal or draft communications, please label "PROPOSED" or "DRAFT")
Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, 22202, Fourth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

EBK /EBK
February 20, 2003

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